

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

THE MERCY HOSPITAL, INC.,     )  
    Plaintiff                     )  
                                   )  
                          v.       ) CIVIL ACTION NO. 04-30014-MAP  
                                   )  
MASSACHUSETTS NURSING         )  
ASSOCIATION,                    )  
    Defendant                    )

MEMORANDUM AND ORDER REGARDING  
REPORT AND RECOMMENDATION  
AND PLAINTIFF'S MOTION TO STRIKE OBJECTION  
(Docket Nos. 23 & 26)

March 9, 2005

PONSOR, D.J.

This is an action seeking to vacate an arbitration award in favor of the defendant Massachusetts Nursing Association. On January 13, 2005, Magistrate Judge Kenneth P. Neiman issued his Report and Recommendation, to the effect that the Motion to Confirm the arbitration award submitted by the defendant should be allowed and the Motion to Vacate the award submitted by the plaintiff hospital should be denied. The plaintiff objected to this Report and Recommendation on February 2, 2005 and on February 18, 2005 the defendant filed its motion to strike the objection.

As a preliminary matter, the Motion to Strike (Docket No. 26) is hereby DENIED. The public docket indicates that objections to the Report and Recommendation should be filed by February 2, 2005, and plaintiff complied.

The objection, though filed within the required time

period, is substantively deficient. The Magistrate Judge correctly applied the Supreme Court's decision in Eastern Associated Coal Corp. v. United Mineworkers of Am., 531 U.S. 57 (2000). The reinstatement, given that the arbitrator found the nurses' explanations for mistakes in paperwork entirely credible, violated no "explicit, well-defined and dominant public policy . . . ." Id. at 63.

For foregoing reasons, and for the reasons set forth in Magistrate Judge Neiman's detailed memorandum, the Report and Recommendation is hereby adopted upon de novo review. The plaintiff's Motion to Vacate the arbitration award (Docket No. 11) is hereby DENIED and the defendant's Motion to Confirm the arbitration award (Docket No. 15) is hereby ALLOWED. The clerk shall enter judgment for the defendant; the case may now be closed.

It is So Ordered.

/s/ Michael A. Ponsor  
MICHAEL A. PONSOR  
U. S. District Judge